

§ 120.521

13 CFR Ch. I (1–1–10 Edition)

The report should accompany requested documentation that SBA deems sufficient to be able to review the Lender's administration of the loan under §120.524. A Lender's failure to provide sufficient documentation may constitute a material failure to comply with SBA requirements under §120.524(a)(1), and may lead to initiation of an action for recovery from the Lender of all or some of the moneys SBA paid to a Registered Holder on a guarantee. SBA will also evaluate the Lender's continued participation in the Secondary Market and may restrict further sale of guaranteed portions into the Secondary Market until SBA determines that the Lender has provided sufficient documentation for purchases.

(d) *No waiver of SBA's rights.* Purchase by SBA of the guaranteed portion of a loan, or of a portion of SBA's guarantee of a loan, either through a negotiated agreement with a Lender or otherwise, does not waive any of SBA's rights to recover from the responsible Lender any money paid on the guarantee based upon the occurrence of any of the events set forth in §120.524(a) in connection with that loan.

[72 FR 18360, Apr. 12, 2007]

§ 120.521 What interest rate applies after SBA purchases its guaranteed portion?

When SBA purchases the guaranteed portion of a fixed interest rate loan, the rate of interest remains as stated in the note. On loans with a fluctuating interest rate, the interest rate that the Borrower owes will be at the rate in effect at the time of the earliest uncured payment default, or the rate in effect at the time of purchase (where no default has occurred).

§ 120.522 Payment of accrued interest to the Lender or Registered Holder when SBA purchases the guaranteed portion.

(a) *Rate of interest.* If SBA purchases the guaranteed portion from a Lender or from a Registered Holder (if sold in the Secondary Market), it will pay accrued interest at:

(1) The rate in the note if it is a fixed rate loan; or

(2) The rate in effect on the date of the earliest uncured payment default, or of SBA's purchase (if there has been no default).

(b) *Payment to Lender—*(1) *For loans approved on or after May 14, 2007.* SBA will pay up to a maximum of 120 days interest to a Lender at the time of guarantee purchase.

(2) *For loans approved before May 14, 2007.* The regulations applicable to the amount of interest that SBA will pay to a Lender upon loan default that were in effect immediately prior to this date will govern such loans.

(c) *Payment to Registered Holder.* SBA will pay a Registered Holder all accrued interest up to the date of payment.

[61 FR 3235, Jan. 31, 1996, as amended at 72 FR 18361, Apr. 12, 2007]

§ 120.523 What is the “earliest uncured payment default”?

The earliest uncured payment default is the date of the earliest failure by a Borrower to pay a regular installment of principal and/or interest when due. Payments made by the Borrower before a Lender makes its request to SBA to purchase are applied to the earliest uncured payment default. If the installment is paid in full, the earliest uncured payment default date will advance to the next unpaid installment date. If a Borrower makes any payment after the Lender makes its request to SBA to purchase, the earliest uncured payment default date does not change because the Lender has already exercised its right to request purchase.

§ 120.524 When is SBA released from liability on its guarantee?

(a) SBA is released from liability on a loan guarantee (in whole or in part, within SBA's exclusive discretion), if any of the events below occur:

(1) The Lender has failed to comply materially with any Loan Program Requirement for 7(a) loans.

(2) The Lender has failed to make, close, service, or liquidate a loan in a prudent manner;

(3) The Lender's improper action or inaction has placed SBA at risk;

(4) The Lender has failed to disclose a material fact to SBA regarding a guaranteed loan in a timely manner;